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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-----------------------|---------------------|------------------|
| 10/797,749  | 03/09/2004  | Michael D. Richardson | 1604-470            | 4228             |
| 22442   | 7590        | 12/28/2005            | EXAMINER            |                  |
| SHERIDAN ROSS PC<br>1560 BROADWAY<br>SUITE 1200<br>DENVER, CO 80202 |             |                       |                     | VAN, QUANG T     |
| ART UNIT  |             | PAPER NUMBER          |                     |                  |
| 3742  |             |                       |                     |                  |

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/797,749             | RICHARDSON ET AL.   |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Quang T. Van           | 3742                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 October 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 20,22,23 and 25-27 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 20,22,23 and 25-27 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 07 April 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/21/05&amp;8/19/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

***Withdrawal of Allowable Subject Matter***

1. The indicated allowability of claim 21 is withdrawn in view of the newly discovered reference(s) to Levendusky et al (US 4,689,458). The Examiner is regretted for any inconvenience. Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 20, 22-23, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rea (US 6,165,115) in view of Levendusky et al (US 4,689,458). Rea discloses a process for closing and a hermetically sealing a bottom of a container comprising a container comprising a metallic sidewall portion (12, col. 3, lines 4-7) comprising a lower end and an upper end (figure 1); a metallic lid (15, col. 3, lines 10-13) which is sealingly interconnected to said upper end of said metallic sidewall portion (12); a microwavable transparent bottom (24) which is interconnected to said lower end of said metallic sidewall portion (12), a reinforcing member (26) operably interconnected to a perimeter edge of said microwavable transparent bottom (24) and a lower end of said metallic sidewall portion (12, figure 9c). However, Rea does not disclose a container height of at least about 2 inches, a bottom surface area of at least about 1.25 square inches. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a container height of at least about 2 inches, a bottom surface area

of at least about 1.25 square inches in order to contain a right amount of food which suitable for the user. With regard to a reinforcing member being a metallic member. Rea does not disclose a reinforcing member being a metallic member. Levendusky discloses, figure 4, a reinforcing member (28) being a metallic member (col. 7, lines 10-14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Rea a reinforcing member being a metallic member as taught by Levendusky in order to seal the bottom of container.

4. Claims 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rea (US 6,165,115) in view of Levendusky et al (US 4,689,458) and further in view of Adami et al (Des. 345,081). Rea/Levendusky disclose substantially all features of the claimed invention except said removable plastic lid comprising a plurality of apertures. Adami discloses a removable plastic lid comprising a plurality of apertures (figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Rea/Levendusky a removable plastic lid comprising a plurality of apertures as taught by Adami in order to allow the venting of steam and heat during cooking.

***Response to Amendment***

5. Applicant's arguments with respect to claims 20 and 22-23 and 25-27 have been considered but are moot in view of the new ground(s) of rejection.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T. Van whose telephone number is 571-272-4789. The examiner can normally be reached on 8:00Am 7:00Pm M-Th.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*QV*  
QV  
December 15, 2005

*Quang T Van*  
Quang T Van  
Primary Examiner  
Art Unit 3742